

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

ERICA ALT §
v. § CIVIL ACTION NO. 6:13cv960
COMMISSIONER, SOCIAL SECURITY §
ADMINISTRATION

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Report and Recommendation of the Magistrate Judge, which contains his findings, conclusions, and recommendation for the disposition of this action, has been presented for consideration. The Report and Recommendation recommends that the social security complaint be dismissed with prejudice. Plaintiff has objected to the Magistrate Judge's conclusions that: the ALJ's disability decision is supported by substantial evidence; the ALJ's credibility finding was not erroneous; the ALJ's RFC finding was not erroneous; and the Step Four finding was not erroneous.

Plaintiff argues that the Magistrate Judge did not mention her Behcet's Syndrome in discussing the ALJ's credibility finding. Plaintiff acknowledges that the ALJ found her Behcet's Syndrome to be a severe impairment, but states she testified it was her Behcet's Syndrome, not her seizures, which kept her from working. According to Plaintiff, the Magistrate Judge cited medical records to support the ALJ's findings regarding seizures, but not Behcet's Syndrome.

Plaintiff's brief noted that she had been diagnosed with Behcet's Syndrome, she testified that Behcet's Syndrome symptoms prevented her from working, and the ALJ found that Behcet's Syndrome was a severe impairment. She did not mention Behcet's Syndrome in discussing the ALJ's credibility assessment.

The ALJ found that Behcet's Syndrome was a severe impairment and took this into account when determining Plaintiff's residual functional capacity. However, the ALJ stated that Plaintiff's medically determinable impairments could not reasonably be expected to produce the symptoms of which she complained and her statements concerning the intensity, persistence, and limiting effects of these symptoms were not entirely credible or consistent with the medical and other evidence of record. The ALJ also considered the seven factors of 29 C.F.R. §1529(c), particularly noting Plaintiff's activities of daily living and the lack of objective medical evidence supporting complaints of pain as well as her history of non-compliance with medications.

The ALJ is not required to specifically articulate evidence supporting a credibility finding and discuss the evidence that was rejected. Falco v. Shalala, 27 F.3d 160, 164 (5th Cir. 1994). The fact that the ALJ did not specifically mention Behcet's Syndrome in discussing her credibility is not reversible error because the credibility determination was based on her allegations of pain and limiting effects rather than the precise nature of her impairments. Review of the record shows the ALJ's findings concerning Plaintiff's statements about the intensity, persistence, and limiting effects of her symptoms was supported by substantial evidence and therefore must be upheld. Johnson v. Heckler, 767 F.2d 180, 182 (5th Cir. 1985); Anthony v. Sullivan, 954 F.2d 289, 295 (5th Cir. 1992).

Plaintiff did not present any arguments concerning her objections that the Magistrate Judge erred in concluding that the ALJ's disability decision was supported by substantial evidence, the ALJ's RFC finding was not erroneous, and the Step Four finding was not erroneous. The Court has reviewed these and has determined that the Magistrate Judge correctly concluded that the ALJ's determinations were supported by substantial evidence and no reversible error is presented. Plaintiff's objections are without merit.

The Court has conducted a careful *de novo* review of those portions of the Magistrate Judge's proposed findings and recommendations to which objection was made. See 28 U.S.C. §636(b)(1) (district judge shall "make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.") Upon such *de novo* review,

the Court has determined that the Report of the Magistrate Judge is correct and the Plaintiff's objections are without merit. It is accordingly

ORDERED that Plaintiff's objections are overruled and the Report of the Magistrate Judge (docket no. 24) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the decision of the Commissioner is **AFFIRMED** and the Plaintiff's complaint is **DISMISSED WITH PREJUDICE**. Finally, it is

ORDERED that any motion not previously ruled on is **DENIED**.

SIGNED this 4th day of September, 2015.


MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE